

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, JUNE 8, 1995

Chairman Tull called the meeting to order at 1:30 p.m. at the Hampton Inn, Spokane, Washington.

MEMBERS PRESENT: **ROBERT M. TULL, Chairman; PATRICK GRAHAM, ARDITH DIVINE, and EDWARD HEAVEY, and Ex-Officio Member SENATOR MARGARITA PRENTICE.**

OTHERS PRESENT: **FRANK MILLER, Director; BEN BISHOP, Deputy Director; SHARON TOLTON, Assistant Director, Special Operations; SHERRI WINSLOW, Assistant Director, Field Operations; CALLY CASS-HEALY, Assistant Director, Licensing; CARRIE TELLEFSON; Special Assistant, Public Affairs; JONATHAN McCOY, Assistant Attorney General; and SUSAN GREEN, Executive Assistant.**

Chairman Tull said there will be an executive session following the public meeting to discuss litigation, both pending and future. There will be no public action taken after the executive session.

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS

Chairman Tull said there are 39 pages of license applications. This is an area that has truly grown over the past few years. **Commissioner Divine** moved for approval of the list as printed. **Commissioner Graham** seconded the motion; motion carried with four aye votes.

GAMETECH INTERNATIONAL, INC.

Ms. Cass Healy said GameTech International, Incorporated (GameTech) applied for a license to manufacture bingo equipment. GameTech is located in Tempe, Arizona. The officers are Richard Fedor, Chairman of the Board and President; William B. Brook, Vice President of Corporate Development (in attendance); Gary Held, Vice President of Sales and Marketing; and Clarence Thiesen, Secretary/Treasurer and Chief Financial Officer. The organization was incorporated in Delaware on April 18, 1994, and is authorized to issue 15 million shares of common stock with a par value of .001 per share. Currently 2,651,000 shares have been issued and are privately held. They have letters of agreement for several Class II activities in Oklahoma, California, New Mexico, Arizona and Alabama. They are not currently licensed for gambling in any other jurisdictions. Investigative procedures included criminal and personal history background checks, background interviews, bingo equipment assembly review and

manufacturing process documentation to satisfy staff that the machines met requirements. Staff reviewed GameTech's records to determine ownership and verify the source of funds for financing. In addition, staff contacted regulatory agencies in Oklahoma, California, New Mexico, Arizona, and Mississippi; no adverse information was noted. Staff recommends licensing GameTech as a bingo equipment manufacturer. An issue did come up which Director Miller explained. **Director Miller** said when other regulatory agencies were contacted, staff became aware that some Class II facilities utilize devices currently in dispute. There are law suits pending as to whether these devices are Class II or Class III. Given that staff has a rule before the Commission regarding doing business with illegal entities, passage of that rule could affect GameTech's license (if granted) if the courts determined that these games are unauthorized or illegal.

Chairman Tull asked when the proposed rule would become effective. **Director Miller** said that normally staff recommends effective dates of January 1 or July 1, but in this case, recommendation will be for 31 days after filing. **Chairman Tull** asked if seeking voluntary compliance would be the first step as it is now with current licensees. **Director Miller** said yes, licensees have been up front with staff regarding this issue and staff wants to be as fair as possible with licensees. **Director Miller** said if the company wants to remain a licensee, they would be required to not do business with organizations operating illegally. **Chairman Tull** said he personally has significant concerns about relationships that could exist, but he's not going to find someone guilty in advance of the rule being adopted. **Director Miller** said staff extensively reviewed this applicant and found nothing in any way to jeopardize its application.

William Brook of GameTech, Calgary, said his corporation is in a Class II classification for player-aided devices. It came to their attention they had entered into an agreement with a supplier of electronic pull tabs in one state. He noted GameTech is prepared to relinquish its association with that corporation. GameTech has no interest in Class III gaming. He clarified that some bingo halls in which GameTech's equipment is currently used have Class III games; however, GameTech's bingo equipment was in these establishments prior to the Class III games and they have no relationship with the Class III suppliers. **Chairman Tull** said Mr. Brook's comments were helpful and demonstrate the complexity that can exist in all these areas and the need for careful consideration.

Commissioner Heavey moved for approval of GameTech as a bingo manufacturer in accordance with staff's recommendation; **Commissioners Graham** and **Divine** seconded the motion; motion carried with four aye votes.

REVIEW OF FRIDAY'S AGENDA

Ms. Tellefson said there is an error in the minutes; Paramount Games is listed as a "management company," but is a manufacturer and was approved as such. She said of the rules that will be heard tomorrow, one is the petition by the Recreational Gaming Association to change the card room closure period; the petition by the Treasurer's Association relating to denial or revocation of licenses for failure to pay gambling taxes; and the rule relating to Phase II implementation. The rule regarding license, denial, or revocation for doing business with illegal entities is up for discussion only tomorrow and there are a number of rules that are up for discussion and possible filing including a group of housekeeping rules, a group of rules relating to charitable and nonprofit record keeping and two rules relating to distributor licenses.

PHASE II REVIEW

Tulalip Casino

Ms. Tolton said on August 2, 1991, after lengthy negotiations, Governor Gardner and Chairman Stan Jones of the Tulalip Tribes signed a compact for Class III gaming pursuant to the Indian Gaming Regulatory Act of 1988. The Class III facility opened for business on July 19, 1992, on the Tulalip reservation in Marysville, Washington. Since that time, the Tribe has given well over \$700,000 in community contributions outlined within the compact, and it is expected an additional contribution will be forthcoming in mid-July. The Tribe currently employs more than 500 people within the facility, approximately 50 percent of which are tribal members. The Tribes and Washington State have an excellent working relationship with the law enforcement community in the area. Staff has been in close contact with Sheriff Patrick Murphy and Marysville Police Chief Dyer.

Ms. Tolton said on January 26, 1995, an amendment to the compact was signed providing increased scope in gaming activities to be implemented in two phases; Phase I became effective at that time and is currently in operation at the facility. Section III.N. of the compact set forth criteria the facility must meet prior to advancing to Phase II levels. In addition, WAC 230-48-010, Tribal-State Compacts--Phase II commission review, provides State Gambling Commission staff conduct an investigative review to be forwarded to the Commission by the director with recommendation for approval if all requirements were met. The Commission may either approve, deny or grant conditional approval.

Ms. Tolton said as part of the six month review of compact compliance, the Gambling Commission staff reported the following facts: 1): Federal district court or the National Indian Gaming Commission imposed no sanctions on the Tribe; 2): there have been no substantial violations of the tribal-state compact or compact appendix A. Previously noted violations for check acceptance in a gaming facility have been substantially reduced by adherence to internal control procedures. Staff from both the Tribe and the state are currently monitoring effectiveness of these changes; 3): there have been no material adverse affects on surrounding communities, and 4): the Tribal Gaming Agency continues to function as the primary regulatory body in the gaming facility since opening in July 1992. In May 1995, the Tribal Gaming Commission was restructured into a seven-member commission elected by the Tribal General Council. The Tribal Gaming court presides over hearings with a judge assigned from the Tulalip Tribal Court.

The Tribal Gaming Commission now appears to be independent from the Tribal Board of Directors and the gaming operation. **Ms. Tolton** said the director is recommending conditional approval under the following terms and conditions. The tribal gaming agency will fully implement recently-established programs for regulatory reforms and internal control modifications, details of which are in the handout packets and, during the six month conditional approval, Gambling Commission staff will assess the effectiveness of the programs identified and will review results from the major and recent restructuring of the Tribal Gaming Commission to determine compliance with the new WAC and the tribal-state compact. Following staff's initial case report, the Tulalip Tribes Board of Directors adopted a resolution regarding rules for disbursement of proceeds from nonprofit Class III gaming stations. The resolution specifically

limits donations to charities recognized by the I.R.S. as 501(C)(3) organizations. Staff believes the key to compliance is successful implementation of the Tribe's recent regulatory reforms, internal control modifications, and the restructuring of the Tribal Gaming Agency.

Ms. Tolton said the Tribe has taken significant steps to address staff's concerns throughout the past year; however, many of the changes, including the restructuring and adoption of regulations, and internal control standards, have occurred within the last 30 days. Because of recent implementation, staff has not had the opportunity to evaluate the programs' effectiveness over a meaningful length of time. In this case, the conditional approval benefits the tribal operation because it does allow for immediate implementation of Phase II levels while the review of the Tribe's programs continue rather than requiring the operation remain at Phase I until staff could fully evaluate. Staff feels this is a reasonable compromise.

Ms. Tolton said the Tribe has expressed its concerns regarding WAC 230-48-010 in a letter. She noted staff responded that, just as the Tribe must adopt laws and rules governing its operations, the Gambling Commission must adopt administrative rules that set forth processes and procedures and provide notice, direction, and information to those that are regulated as well as the public. **Ms. Tolton** said personally, the relationship with the Tribe is excellent, primarily because of Tom Gobin, Tribal Gaming Agency Director, and Mike Tindall, Gambling Commission Tribal Gaming Unit Program Manager.

Suzanne M. Larsen, attorney, Bell & Ingram, representing the Tulalip Tribes, said the Tribe feels the documents prepared, including tribal ordinance 55-A, regulations that establish the Tribal Gaming Agency, and the minimum standards for internal controls are comprehensive, stringent, and when implemented will address all concerns the Gambling Commission may have. She introduced Tom Gobin, Tribal Gaming Agency Director; Raymond Fryberg, Chairman of the current Tribal Gaming Commission. She introduced Debbie Possee, one of the newly elected Commissioners; Rod Murray, Tribal Gaming Agency Chief Inspection; Mike McCarthy, Tribal Gaming Operation Chief Operating Officer; and Craig Purlee, Director of Financial Operations. She noted the newly elected Commission has not been sworn in; they are in the process of being certified and bonded. **Ms. Larsen** said they would be more than happy to answer any questions regarding the documents.

Chairman Tull said he received a very thoughtful letter from Stan Jones, Chairman of the Tulalip Tribes, which is a good example of how to conduct government-to-government relationships. There was some concern that as Phase II agreements were coming forward, the Commission had not yet established a procedure, which left staff adrift as to what the commissioners wanted. One of the things the commissioners did want was flexibility. The Phase II review issue was one that was brought up during a meeting with Governor Lowry last July. At that time, he expressed the opinion that, so long as the Gambling Commission has helped the tribes achieve a very high level of regulation, then the Commission should not have objections to higher limits. The order proposed needs a little modification. **Chairman Tull** said there is a paragraph that presently starts, "At the January meeting," and he would like to strike the word "at" and put in the words "prior to" so that it would be reached by the Commission ahead of time. He said that once the Tribe accepts the terms, then it becomes effective. He would also like the last sentence stricken. The Tribe then has to decide if this is acceptable to them.

Ms. Larsen said it is difficult to say for sure without seeing the changes in writing, but she thinks

there is no problem with these changes.

Commissioner Heavey asked if Chairman Tull wants the language change of "prior to" or "at January." **Chairman Tull** said the change is "At or before the January 1996 Commission meeting..." and moved for approval of the order with the said changes. **Commissioner Heavey** seconded the motion. **Chairman Tull** called for a vote; motion carried with four aye votes. **Senator Prentice** noted that her vote was also "aye," although it may not be necessary for her to vote on this item, which makes the vote five ayes, zero nays.

Chairman Tull thanked everyone for cooperating.

QUALIFICATION REVIEWS

SPOKANE YOUTH SPORTS ASSOCIATION, Spokane

Ms. Cass-Healy said Spokane Youth Sports Association (SYSA) is an athletic organization with a Class "K" bingo license, Class "L" punchboard/pull tab license, Class "D" license for amusement games, and Class "A" raffle license. The statement of purpose is to implant in the youth of the greater Spokane area good sportsmanship and the ideals of good citizenship. The organization's six main programs for youth ages six through eighteen in the Spokane area include soccer, football, softball, baseball, golf, select soccer, and summer athletic programs. They also provide recreational programs year-round in an in-door activity center geared toward the elderly as well as children ages four through eighteen. SYSA served around 21,000 clients last year; they provided their services through 23 employees and 1,400 volunteers; they contributed \$34,000 to the community and gave away almost \$35,000 in scholarships. Last year, SYSA started a downhill ski program and is considering whether to develop a snow boarding program. Three employees earned more than \$30,000 during the year and staff recommended approval for qualification as an athletic organization for the purposes of conducting gambling in the state of Washington. **Commissioner Divine** said this is a good program and she moved for qualification. **Commissioner Graham** seconded the motion. **Commissioner Heavey** asked how they made up the \$20,000 shortfall.

Dwight Merkle, Spokane Youth Sports, introduced Jerry McDermitt, Joe Jensen, and Ken Merkle. He said the \$20,000 shortfall was advanced and moved over from the endowment fund to the Association. In response to a question from **Commissioner Heavey**, Mr. Merkle attributed the loss of revenue to increased competition from Native American gaming.

Chairman Tull called for the vote; motion carried with four aye votes.

SPOKANE GUILDS' SCHOOL/NEUROMUSCULAR CENTER, Spokane

Ms. Cass-Healy said Spokane Guild's School/Neuromuscular Center (SGS/NC) is an educational organization with a Class "J" bingo license, Class "J" punchboard/pull tab license, and Class "A" raffle license. Their statement of purpose is to provide a continuum of education, care, and services to children with developmental disabilities and their families. The

organization maintains an assessment and treatment center in Spokane for developmentally disabled children. These specialists provide services through five major intervention programs including preschool, preschool plus, toddler, individualized treatment, home programs and transportation services. Clients served last year included 63 initial evaluations and 160 treatment program participants. These services were provided by 36 employees and 215 volunteers. Last year, the organization received the U.S. Department of Public Health Community Integration of Social Services grant. Ten employees earned more than \$30,000 last year and 13 part-time employees earned more than \$15.00 per hour. Staff recommended approval for qualification as an educational organization for the purpose of conducting gambling in the state of Washington.

In response to a question from **Commissioner Heavey**, regarding the meaning of "administration" costs, **Ms. Cass-Healy** noted that administrative costs include costs relating to all of the organization's programs and activities, not just the gambling activities. **Commissioner Graham** asked what the basic problem had been. **Ms. Cass-Healy** said SAGS/NC attributes its financial difficulties to Native American gaming. **Chairman Tull** asked if they were affected by the road construction. **Commissioner Graham** answered that he didn't think they were affected. **Chairman Tull** said through personal contact with SAGS/NC he is aware of the fine work it does.

SPOKANE VALLEY FOUNDATION, Spokane

Ms. Cass-Healy said Spokane Valley Foundation (SVF) is a charitable organization with a Class "J" bingo license and Class "G" punchboard/pull tab license. The statement of purpose is to provide transportation, housing, and services to the elderly and mentally- and physically-challenged in Spokane County. Direct services are provided through the following two major programs: 1) a personal assistance service offering transportation for the elderly and disabled, nursing services, and regular visits to nursing home residents and hospital patients; and 2) USDA Food Commodities distribution program. Other services are provided indirectly through cash donations to various nonprofit/charitable organizations in Spokane County. Services were provided by 30 employees and 35 volunteers. There was almost \$12,000 in direct contributions and \$7,700 in donated building use last year. One employee earned more than \$30,000 during the year and staff recommended approval for qualification as a charitable organization for the purposes of conducting gambling in the state of Washington.

Chairman Tull said this is an organization that has occupied a lot of the Commission's time. He asked if staff believes this organization is doing better. **Ms. Cass-Healy** said they have come a long way and are working toward compliance. **Director Miller** said this is a classic example of an organization turning things around. He said there has been vast improvement.

Commissioner Graham noted SAGS/NC reported gross income was cut in half because of the tribal gaming, while SVF is closer to the Idaho bingo and casino and doesn't seem to be as affected by tribal gaming. **Commissioner Divine** said she believes it is because customers are bussed to the Idaho casino. She saw an advertisement in the paper today that offers \$50.00 in tokens just for going.

Norman Majer, President and Chairman of the Board, attributed SVF's success to good

management. In response to a question from **Chairman Tull**, **Mr. Majer** said the bingo facility is located on the corner of Pine and Boone. **Ms. Cass-Healy** said it should be noted SVF is meeting its net income requirements, which automatically indicates its net is higher than before. Responding to a question from **Mr. Bishop**, **Ms. Cass-Healy** said staff had a lot of discussion with SVF regarding administrative expenses.

Commissioner Heavey asked for clarification on the issue of administrative costs. He asked about the \$200,000 for Spokane Guild School in administrative expenses and if that figure includes an individual named Norman Majer who is President and Chairman of the Board, who received certain compensation. He oversees foundation programs and direct transportation programs so it appears that his activities are directed at the bingo activities.

Ms Cass-Healy explained normally the administrative program would include the salaries of program directors so the portion of his salary that is directed at the programs would be in "program services" as opposed to "administrative services." **Commissioner Heavey** asked whether Mr. Majer's salary would be moved down to Section B. and whether the administrative expense then would probably fall within the guidelines. **Ms. Cass-Healy** said it already is in the B. portion. She said they have a lot more labor intensive type activities and so they will have more administration expenses. **Commissioner Heavey** said he understood, as long as there is meaning behind the numbers and report format.

Mr. Bishop said under program expenditures, there are no bingo expenses; they are all included in the net income number that is up above. There is nothing in Section 2 under "program expenditures" that would be classified as bingo expenses. **Commissioner Heavey** then asked if there is an administrative expense of \$200,000 and if there is a total bingo income of \$91,000, whether there is a 200 percent administrative expense, instead of a 22 percent administrative expense. He asked what this "administrative expense" means. **Mr. Bishop** said that means of the total, if we are looking at the Spokane Guild School, \$888,000 was spent on programs. That is what it took to do their programs. They spent one quarter of that or 22 percent of that administering those services. **Chairman Tull** said, separate from bingo services, in looking at Spokane Valley Foundation, they only have 1.9 FTE's. **Commissioner Heavey** said under Spokane Valley Foundation it has program expenditures and administration. He asked what the 48 percent means. **Ms. Cass-Healy** said they are spending more administering their programs than providing the programs. **Commissioner Heavey** asked what difference that makes. **Chairman Tull** said because it makes it more likely than not that the organization could exist mostly for the purpose of employing people from the proceeds of bingo. **Commissioner Heavey** said Spokane Valley Foundation has \$256,000 coming in from bingo; they spent \$85,000 for administration. Spokane Guild School has \$91,000 coming from bingo and they spent \$200,000 for administration. He asked what the Commission is regulating and why. **Chairman Tull** said that some of the Commission's motivation comes from a sense of history that attaches to this organization. For a long time, it appeared to the Commission that this organization's primary function was financial benefit from the conduct of gambling activities. The Commission is trying to make sure these organizations are doing what they are supposed to be doing. There is no one disputing that the Spokane Guild helps people. They existed long before bingo and will exist long after bingo. Spokane Valley Foundation, in his personal opinion, was created to operate a bingo and for years the only benefit of that bingo of any real scope was the salaries earned by the people who started the game. The Commission had to crack down enormously on them. The program differences between the two organizations are profound. They are different in every way, shape and form.

Commissioner Heavey said he isn't concerned about that at this point. What he is concerned about is what the "29 percent assured home health" means, what the "48 percent for Spokane Valley Foundation" means, and what the "22 percent for administrative expenses" means. It means absolutely nothing to him. He asked what affect it has on the bingo operation because there is other money plowed into there and then it is lumped altogether and called "administrative expense." It is a meaningless statistic. **Chairman Tull** said no, because the Commission has another statistic that shows the percentage of which gambling supports the organization. **Commission Heavey** said it ought to be related to how much of the bingo or gambling income is used for administration and if that's too high, then the Commission ought to do something about it. It is easy to figure out with regard to Spokane Valley because most of the money comes from gambling. **Chairman Tull** said organizations that only get a small or a minimal portion of their income from bingo don't have problems with those administrative types of things. **Ms. Cass-Healy** asked if she could put some explanations together and bring them to the next meeting. **Commissioner Heavey** said he understands the explanation but he wants some meaning because there is no meaning. **Chairman Tull** said this program has continued to evolve in the presentation format and if there is more reform necessary, it will take place.

Commission Heavey said they are "whipping a dead horse;" he felt he wasn't getting his point across. **Chairman Tull** said if the Commission needs to do more explaining, or give a different presentation of numbers, discussing that with Ms. Cass-Healy will assist that in happening.

Chairman Tull said he remembered where that administrative cost came from. It came from the question that is applicable in a number of other regulatory or oversight capacities. These organizations spend huge amounts of money on fund raising for these organizations and paying salaries to those who raise the funds with only small fractions getting back to the research. The purpose was to bring that issue under some sort of a microscope and not attempt to tell people what to do but to let them know that was going to be a sensitive issue in the future. **Director Miller** said it comes down to the legitimacy of the organization. The RCW requires that they be licensed for certain purposes. It must be charitable or social. Staff looks at the purpose and the programs; the Commission's policy is that the majority of the funds must go to the program or they don't qualify to have a license. If all of the money goes to administration only, then there is a problem. **Commissioner Heavey** said that in the used clothing industry, the organizations only receive \$1 per pick-up, and wonders how much money they get for selling the clothing. In addition, the Commission is going to go to these organizations that make \$91,000 out of bingo and say that the administrative expenditures are too high. He has problems with this and believes it is a meaningless statistic.

ASSURED HOME HEALTH FOUNDATION, Spokane

Ms. Cass-Healy said Assured Home Health Foundation (AHHF) is a charitable organization with a Class "G" bingo license, a Class "F" punchboard/pull tab license, and a Class "A" raffle license. Their statement of purpose is to provide free and subsidized home health/hospice care and/or medical supplies. They provide services through the Morton Thrift Store and Chehalis Discovery Store as well as the Hospice Care program and home health care program. They also have a community service employee's program. They served 448 members of the general public with two employees and 571 volunteers. They contributed \$161,503 to the community

through Assure Home Health Agency. During the last year, the organization opened an office for the nurses who work in the Morton area. Also, the organization has developed a program to provide job experience for developmentally disabled individuals within Thurston, Lewis, and Mason counties. One employee earned more than \$30,000. Staff recommended qualification as a charitable organization for the purposes of conducting gambling in the state of Washington.

Commissioner Divine moved to adopt the staff's recommendation on SVGS, SVF and AHHF. **Commissioner Graham** seconded the motion. **Commissioner Heavey** said that his affirmative vote on these three groups in no way indicates his approval of meaningless statistics. Motion carried with four aye votes.

GENERAL DISCUSSION

Chairman Tull asked if anyone had suggestions for the 1996 Commission meeting locations. At the moment, it has been proposed to go to Silverdale in January, which takes care of a cancellation fee from the cancelled July (1995) meeting. The August meeting is scheduled for Chelan; September is in Bellingham. **Director Miller** said there is potential that the August meeting could be cancelled as well due to a lack of a quorum. **Chairman Tull** said the Commission would review that and confirm the August date as soon as possible.

Commissioner Heavey moved to continue with Mr. Tull as Chairman of the Commission and Wanda Mosbarger as Vice-Chair for the coming year. **Commissioner Divine** seconded the motion. **Chairman Tull** said he appreciated the vote and would be pleased to act as Chair one more year. Vote taken, motion carried with four aye votes.

Chairman Tull adjourned the public meeting and called for executive session.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, JUNE 9, 1995

Chairman Tull called the meeting to order at 10:00 a.m. at the Hampton Inn, Spokane, Washington.

MEMBERS PRESENT: **ROBERT M. TULL, Chairman; PATRICK GRAHAM, ARDITH DIVINE and EDWARD HEAVEY; and Ex Officio Member SENATOR MARGARITA PRENTICE.**

OTHERS PRESENT: **FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; SHERRI WINSLOW, Assistant Director, Field Operations; CALLY CASS-HEALY, Assistant Director, Licensing; SHARON TOLTON, Assistant Director, Special Operations; JONATHAN McCOY, Assistant Attorney General; CARRIE TELLEFSON, Special Assistant, Public Affairs; and SUSAN GREEN, Executive Assistant.**

APPROVAL OF THE MINUTES FROM THE MAY 11-12, 1995, MEETINGS

Ms. Tellefson said there is an error in the minutes; page two says "Commissioner Graham moved for certification of Paramount Games as a Class III management company," but that should read "Commissioner Graham moved for certification of Paramount Games as a *manufacturing company*." **Commissioner Graham** moved for acceptance of the minutes from the May 11-12, 1995, Commission meeting in Vancouver, Washington, as set forth and amended. **Chairman Tull** seconded the motion; motion carried with four aye votes.

STAFF REPORTS -- Tribal Gaming Update

Director Miller said since last month, three new compacts have been signed by Governor Lowry with the Nisqually Tribe, the Hoh Tribe, and the Skokomish Tribe. There are now 15 tribal-state compacts in Washington State. **Director Miller** noted the Chehalis Tribe will open the sixth casino under compact. Staff has been working very closely with them; they have one of the largest facilities in the state.

Director Miller also stated unfortunately, negotiations have broken down with the Yakama Nation approximately a week ago. The Commission has been named in a lawsuit by the Yakama Nation alleging failure to negotiate in good faith.

STAFF REPORTS -- Legislation

Director Miller said Engrossed Senate Bill 5269, "the raffle bill" passed the legislature. The Bill raised raffle tickets to the maximum price of \$25.00 per chance. He said the Governor has not signed the bill yet to his knowledge. The \$100 limit at the discretion of the Commission was not approved.

ADOPT OR AMEND RULES

CARD ROOM PETITION

Amendatory Section -- WAC 230-40-400 - Hours limited for card games

Chairman Tull said this amendment is from a petition by the Recreational Gaming Association. The amendment was adopted and filed first as an emergency rule and was then filed to go through the regular rule adoption procedures.

Ms. Tellefson said there was one change made at the last meeting to the language providing conditions for granting the shift in closure period. The following language is new language: "As long as the following conditions remain in effect." Staff recommended final adoption.

Chairman Tull said the change clarifies that local law enforcement approval is an on-going issue.

Lou Dales, co-owner and operator of Tower Lanes in Tacoma, said this petition has been beneficial to his card room. They play quarter games with low limit dollar games, which provides entertainment for senior citizens and other players. Since the tribal operation opened in Auburn, neighboring card rooms have closed. **Mr. Dales** expressed his hope the Commission approves this amendment.

Robert Saucier, Mars Hotel Corporation, said that even though his company does not operate a licensed card room, he urges the Commission to approve this rule change. He noted the rule change shifts responsibility from the Gambling Commission to the local law enforcement agencies and to the Liquor Control Board. **Mr. Saucier** said the Liquor Control Board does not allow alcohol to be served past 2:00 a.m., and cautioned that liquor licensees must apply for specific approval to offer any additional activities.

Chairman Tull asked if there was any further public comment; no one came forward.

Commissioner Heavey moved for adoption of this rule change. **Commissioner Divine** seconded the motion. **Chairman Tull** said he believes the Commission has not dropped anything onto local law enforcement that it cannot handle and there is now coordination with the Liquor Control Board as well. The Commission recognizes there will be situations where different treatment in different jurisdictions will cause problems for certain operators. Vote taken; **Commissioners Heavey, Divine, and Tull**, voted aye; **Commissioner Graham** voted nay. Motion carried with three aye votes.

TREASURER'S PETITION

Amendatory Section **WAC 230-04-400 Denial, suspension or revocation of licenses.**

Amendatory Section **WAC 230-50-010 Adjudicated proceedings--Hearings.**

New Section **WAC 230-04-405 Commission may seek reimbursement for costs incurred in pursuing license revocation for failure to pay gambling taxes.**

Chairman Tull said this section is from a petition of the Treasurers' Association and has gone through significant evolution. **Ms. Tellefson** said the Washington Association of County Treasurers (WACT) proposed a rules package to get help in seeking revocation or denial of licenses for failure to pay gambling taxes. WACT initially proposed four rules and last month the Commission went through each rule. The Commission denied WAC 230-04-280, which required licensees to notify taxing authorities directly. WAC 230-04-400 is unchanged from last month and specifically provides denial or revocation of licenses for failure to pay gambling taxes. WAC 230-50-010 is unchanged, which provides for the use of brief adjudicative proceedings in the event that WAC 230-04-400 is adopted. WAC 230-04-405 had some changes last month. WAC 230-04-405 allows the Gambling Commission to obtain reimbursement for costs incurred directly from the licensee. Changes to the proposed rule clarify the Commission will ask for reimbursement of costs incurred; whether or not the Commission takes action in these cases is discretionary. **Director Miller** commented one thing needs to be made clear. The Commission does presently assist jurisdictions when a judgment is found. The proposed rules gives staff the discretion to get reimbursed. The proposed rules also clear up the concern that Commissioner Graham had on the dual notification requirement. **Director Miller** noted the proposed rules represent an improvement to our current system because staff will seek reimbursement. **Chairman Tull** said he thought the proposed rules make it even more clear that licensees who follow the Commission's rules won't be at a disadvantage to other licensees who do not follow the rules. **Commissioner Divine** moved for approval of the three rules regarding the treasurer's petition. **Chairman Tull** seconded the motion; motion carried with four aye votes.

PHASE II IMPLEMENTATION

New Section **WAC 230-48-010 Tribal-state compacts--Phase II commission review**

Ms. Tellefson said this is a new section, WAC 230-48-010, and also a new chapter within the Commission's WAC rules. The rule sets forth procedures for tribal casinos to go from Phase I operating levels to Phase II. There was one change made at the last meeting, in subsection (e), the term "adequate" was substituted for the term "strong." **Chairman Tull** said there was some discussion yesterday regarding this rule and this will be the final public hearing opportunity. He noted yesterday the Commission clarified these are rules for staff to follow in order to carry out statutes adopted by the legislature.

Commissioner Heavey moved for approval. **Commissioner Graham** seconded the motion; motion carried with four aye votes.

LICENSE DENIAL OR REVOCATION FOR DOING BUSINESS WITH ILLEGAL ENTITIES

Amendatory Section **WAC 230-04-400 Denial, suspension or revocation of licenses**

Ms. Tellefson said this amendment to WAC 230-04-400 was filed as an Intent to Adopt on June 2, 1995, and will become final in August 1995. This amendment provides a basis for revocation of licenses for having done or doing business with illegal entities. Staff recommends further discussion of this rule. **Chairman Tull** said section ten, as before the Commission, authorizes license denials and clarified that it includes those other jurisdictions in the country, around the world, illegal slot machines, etc. He said written and oral testimony will be taken.

Jeanne Jerred, member of the Colville Confederated Tribes, gave a historical overview of the Colville Confederated Tribes: "The Colville Tribes is a confederation of 12 tribes with a current enrollment of 8,150. The tribes constituting the Colville Tribes historically governed and lived in an area ranging south from the Columbia River, west to the Cascade Range, east to the Spokane River and Colville Valley and north into Canada. The present Reservation was established by Executive Order of President Grant in 1872 and exceeds three million acres. The North Half of the Reservation was returned to the public domain in 1892, but the Tribes retains certain lands, hunting, fishing, water, power and other rights in the North Half. The Reservation proper consists of 1.4 million acres bounded on the south and east by the Columbia and on the west by the Okanogan River.

The Colville Tribes is governed by a 14-member business council representing the four legislative districts of the Reservation. The Tribal constitution was adopted by a vote of the tribal membership and approved by the Commissioner of Indian Affairs in 1938. An amendment approved by the membership in 1990 established the Tribal Courts as a separate branch of government.

In 1984 the Colville Business Council chartered the Colville Tribal Enterprise Corporation (CTEC) as an independent yet integral part of the Colville Tribes. The express purpose for CTEC is to develop the Tribes' resources in an orderly fashion and generate profit for the benefit of the Tribes and its individual members, promote economic development, provide Indian employment and insulate tribal business decision making from politics. CTEC is overseen by a five member board of directors appointed by the Business Council. The day to day operations is the responsibility of its CEO, Clay Antioquia.

Chairman Tull and members of the Commission, I come before you today to testify in opposition to the proposed rule amending Washington Administrative Code (WAC) 230-04-400 authorizing the Commission to deny, suspend or revoke a gaming license if the applicant or licensee has engaged in business with an entity that is or has illegally operated gambling activities. The Colville Tribes certainly would never presume to tell this body or any other state agency what laws and regulations are appropriate to adopt in order to fulfill its statutory mandate. Likewise, we expect the state of Washington to recognize the sovereign right of the Colville Tribes to determine which laws are necessary to regulate conduct on the Colville Reservation. We are concerned, however, that the proposed rule is targeted to prevent tribes such as Colville, Lummi and Spokane from engaging in business with state licensees.

We believe that the rule will discourage state-licensed entities from engaging in business with the Tribes. This is not the first time the Commission has used its licensing power to interfere with the Tribes business relationships. The Commission threatened International Gameco with license suspension if its subsidiary, Oasis, continued to do business with the Tribes. See February 4, 1994 letter to Richard A. Finnigan from Frank Miller. The same threat was made to the Tribes' bingo supplier, Central Amusement. Although the parties felt that they could ultimately prevail, International Gameco did not wish to forgo 4-6 months of paper pull tab sales while it fought the license suspension.

The Colville Tribes is fearful that the proposed rule will be used for the same purpose. The effect of such action would be to prevent the Tribes from engaging in business with the same reputable enterprises as state licensees. If applied in that manner against businesses with whom the Tribes deal the rules contravenes the state's professed policy of ensuring clean gaming.

Rather than engage in this type of targeted rule making, the Colville Tribes believes the Commission should use its position to seek a resolution of the impasse between the Tribes and the state. Unfortunately, the state's legal strategy has been to avoid resolution by the courts out of fear of the results.

The revenue generated by the Colville Tribes is used for governmental purposes in much the same way as the state's lottery. The Colville Tribes stands ready to discuss a solution to our impasse that will preserve the Tribes' right to engage in gaming under the Indian Gaming Regulatory Act while at the same time addressing legitimate state interests. We believe this rule is another misguided step in the State's strategy and will heighten the tensions between our respective governments. The real issue is not governmental authority or fear of illegal, unregulated gaming, it is the ability of Indian tribes in states such as Washington to engage in machine gaming under the IGRA.

As Senator McCain so eloquently expressed with his Additional Views in the Senate Report accompanying the Indian Gaming Regulatory Act, the states' and gaming industry's true interest extended far beyond their expressed concern about organized crime and focused on protection of their own games from this new source of economic competition - Indian gaming. '[T]he State and gaming industry have always come to the table with the position that what is theirs is theirs and what the Tribe[s] have is negotiable.'

The state of Washington wants nothing to do with the IGRA unless an Indian tribe capitulates and agrees to the onerous limitations Washington State would impose - limitations that neither comport with federal law or Congress' intent when it enacted the IGRA. The Colville Tribes want nothing more than to engage in gaming as contemplated by Congress when it enacted the IGRA without the State's interference.

Unfortunately, we have been unable to overcome our legitimate disagreement because of the State's refusal to utilize the federal court forum contemplated by Congress when it adopted the Indian Gaming Regulatory Act in order to resolve the issue. Adopting rules designed to interfere with the Tribes' business relationship is not the solution either. I call upon you, all of you, to use your influence to seek a fair resolution of our dispute regarding the propriety of machine gaming on our Reservation under IGRA.

Thank you for the opportunity to present the views of the Colville Tribes."

Chairman Tull thanked Ms. Jerred for her thoughtful remarks and for the packet she handed out, which included a letter to the editor by Commissioner Graham.

Roy Orr, Colville Tribes, said he is the past chairman of the board for CTEC Corporation. In March, he assumed the general manager position for the Colville Tribal Gaming Division and has been operating out of the Mill Bay casino since that time. CTEC consists of many different enterprises, including Colville Tribal Credit, Roosevelt Recreation Enterprises, Colville Indian Precision Pine, Colville Timber Resources Company, Colville Tribal Logging, Colville Tribal Services Corporation, Nespelem Trading Post, and community stores. These businesses employ well over 500 individuals of which about 70 percent are tribal members. CTEC corporation began 10 years ago as a tribal self-funded corporation and reports to the tribal council and to the tribal membership. The tribal membership has suffered for many years with heavy unemployment, which is well over 50 percent. He said their local communities that participate in employment in the Tribes' businesses have from five to eight percent unemployment. The businesses have an impact on the employment of tribal and non-tribal members. The tribal businesses have been successful in reducing the social service debt for the state especially in the Okanogan/Omak area and now in the Chelan area. He has been charged by the CTEC management to run a first-rate, high-class operation and that is being done on a daily basis. One of the goals of the casino is to deal with only reputable vendors and if this rule is passed, it will put them in jeopardy. Payments that he makes to the Tribes are starting to have an impact on their social programs. More and more social programs are receiving less and less federal funding. They help in the communities financially, with people and with generated interest. In Lake Chelan during one year of operation, the community went from closing their doors in October to the end of May, when employment is retained and some of the business have grown. They contribute to the hospitals, emergency medical funds, firemen's funds, police funds, and they support the social network of the community. They are now members of the Wenatchee Chamber of Commerce. They provided volunteers to the police departments of Okanogan and Chelan during Memorial weekend. He, along with the Business Council, urges the Commission to let them continue to operate, as they have been, as a first-class operation. He will be having the FBI assist in the teaching of a class on what to do in case of a robbery. Again, he wanted to urge the Commission to allow them to continue.

Bruce Tower, for the Spokane Tribe, asked for clarification on the verbiage of the rule where it says, "Is the supplier, manufacturer, financier, or management company providing goods or services to an entity that is illegally operating gambling activities or has illegally operated gambling activities." He said that to him, that means the Gambling Commission can revoke the license -- regardless of the outcome of the Spokane case -- of anyone who ever does business with them because they have conducted illegal activities in the past. He doesn't feel it should be worded quite that way. **Chairman Tull** remarked that if a criminal serves a term in jail and the crime is later decriminalized, that doesn't mean that person didn't serve time in prison.

Robert Saucier, Mars Hotel Corporation, said some of the language is painted with a very broad brush. The rule is not limited to Washington state, what would be deemed an illegal activity in another state could be considered legal gambling in other areas of the world. His concerns are that this is not limited to activities in Washington state, and also the question of what is considered an illegal activity. He said it should be specifically targeted to what the Commission is trying to accomplish.

In response to a question from **Chairman Tull**, **Mr. Saucier** said the Mars Hotel Corporation has a building they are renovating into a hotel. Currently, they have a restaurant and are a licensee of the Commission. **Mr. Saucier** mentioned he is also on the board of directors of the Licensed Beverage Association but said his comments on this matter are purely his own.

Chairman Tull noted he appreciates written submissions along with remarks. **Commissioner Heavey** said the last speaker's remarks were well taken. With assistance of able counsel, he offered the following change: "If a supplier, manufacturer, financier, management company knowingly provides or provided goods or services to the entity that is illegally operating gambling activities or was illegally operating gambling activities at the time such goods or services were provided." He said the change incorporates a "knowing" element to eliminate innocent parties. He also recognizes the concern regarding courts ultimate decision that the activities engaged in have been determined illegal but turn out to be legal on appeal. He thinks there are certain due process rights applicable to a denial of license, based upon an activity that subsequently turned out to be legal. He feels it is a function of the Commission to discourage people from engaging in illegal activities although it may turn out to be that the courts were reversed. The history he has seen with the Commission is the Director and staff make every effort to be fair. He also noted the language says "may," and not "shall."

Chairman Tull said a change may help clarify the intent of the rule.

Commissioner Graham complimented the Colville Tribes in the way they presented their views. He noted he would not be able to vote on this rule because he will no longer be serving on the Commission, but he does not think the rule will be enforceable. There are already plans in the works to go around this rule. He remarked if staff tries to enforce this rule, they will waste more time than necessary.

Chairman Tull agreed with Commissioner Graham's comments regarding the Colville Tribe's presentation. He recalled the Commission and the Tribe had no problem coming to an agreement for Class III gaming. The Commission has been frustrated with events that followed. He said the Commission will carefully consider the remarks that have been submitted. He invited the tribal representatives to attend the August Commission meeting in Chelan for the final action on this rule. He also noted the Commission has not and cannot initiate legal action against the Colville Tribe.

A Colville Council Member (name unknown) from the Nespelem District said the Governor signed the Centennial Accord and has a government-to-government agreement with the Tribes, but the state keeps fighting tribes on everything they try to do to take care of their people and earn a living. At present, timber is the largest source of revenue and as everyone knows, timber is being depleted. His tribe will need another source of income. **Commissioner Heavey** noted from a personal standpoint, it makes no difference to him if there are slot machines in the state; he's heard the arguments that Native Americans have made across the United States about how gambling has helped their communities. He stated the Commission does not establish policy. He related his Senate confirmation was held up because of his vote on this particular issue. Arguments regarding policy should be directed to the Legislature. In his view, the Commission staff is even-handed and goes out of its way to be fair.

Chairman Tull closed the public testimony portion and encouraged everyone to diligently analyze this rule and its potential implications.

HOUSEKEEPING CHANGES

Amendatory Section **WAC 230-02-250 Bingo equipment**
Amendatory Section **WAC 230-08-105 Disposable bingo cards--Inventory control record**
Amendatory Section **WAC 230-20-240 Bingo equipment to be used**

Ms. Tellefson said there were three rules up for possible filing. These amendments are housekeeping changes. Staff recommended filing for further discussion.

Chairman Tull said in this instance, he proposed to the Commission they just vote to file them or not; there will be ample opportunity for discussion. He asked if there was a motion.

Commissioner Divine moved to file the proposed changes. **Chairman Tull** seconded the motion; motion carried with four aye votes.

Amendatory Section **WAC 230-08-010 Monthly Records**
Amendatory Section **WAC 230-08-080 Daily records--Bingo**
Amendatory Section **WAC 230-08-095 Minimum standards for ~~((Class D and above bingo games--))~~ monthly and annual accounting records--charitable or nonprofit organizations**
Amendatory Section **WAC 230-12-020 Gambling receipts deposit required by all bona fide charitable and nonprofit organization--Exemptions**
New Section **WAC 230-08-110 Prize inventory control procedures--Records required--Charitable or nonprofit organizations**

Ms. Tellefson said the group of rules under Item 8 consists of four amendments to current rules. They are a combination of housekeeping changes and substantive changes in each rule. They relate to record keeping in charitable or nonprofit organizations. These changes were discussed with the charitable/nonprofit study group. If commissioners have specific questions, she asked Deputy Director Bishop to answer them. Staff recommended these be filed.

Chairman Tull asked if there was a motion. **Commissioner Divine** moved to file the rules for further consideration. **Chairman Tull** seconded the motion; motion carried with four votes.

Amendatory Section **WAC 230-02-210 Distributor defined**
Amendatory Section **WAC 230-04-120 Licensing of distributors**

Ms. Tellefson said item 9 consists of two rules. **Commissioner Divine** moved to file the two rules for further consideration. **Chairman Tull** seconded the motion; motion carried with four aye votes.

COMMENTS OF PUBLIC OR PUBLIC OFFICIALS

Chairman Tull asked Senator Prentice if she had any comments regarding the legislative session. He noted the Commission's appreciation of the Senator's attendance at the meetings.

Senator Prentice said she tried to bring Commissioner Heavey's confirmation up for a vote, but was not successful. She said it is difficult to speak on behalf of the Legislature because there are 146 other members and so many differing viewpoints. She said the state is not ready for a major expansion of gambling, and related how two bills ran into opposition because they were seen as expanding gambling. **Senator Prentice** noted the Commission is seen as being way too permissive to the Tribes. She said another issue to be dealt with is the businesses affected by tribal gaming. **Chairman Tull** commented it is ironic the Commission is viewed as too

permissive by the legislature but that the tribes feel the Commission is too restrictive.

COMMISSIONER GRAHAM'S RETIREMENT

Commissioner Heavey moved to thank Commissioner Graham for his service on the Commission and to encourage Commissioner Graham to stay in touch so the Commission may continue to learn from his experience and wisdom. **Chairman Tull** explained this is likely Commissioner Graham's final meeting as a Commissioner because his term has come to an end. He said there was a special dinner for Commissioner Graham last night during which he was presented with a plaque in recognition of ten years of distinguished service to the Washington State Gambling Commission. **Chairman Tull** remarked there is no doubt the direction of the Commission has been totally affected by Commissioner Graham's good judgment, calm approach to thorny problems, and by his humor that creeps in in all sorts of subtle ways. **Chairman Tull** said he learned much from Commissioner Graham and will miss him. **Commissioner Divine** thanked Commissioner Graham for his help educating her during the last two-and-a-half years and for helping her see her way through the meetings. **Director Miller** related he was talking last night of all the commissioners and all they do, and people think the commissioners make a great deal of money; but the amount hasn't been raised in ten years. On behalf of the staff, he thanked Commissioner Graham. On behalf of himself, he thanked Commissioner Graham and said he is going to miss him.

Bruce Didesch, Colville Tribe, said he was one of the people involved with negotiations and he wanted to thank Commissioner Graham for his leadership. He said that until Commissioner Graham came to the table, the negotiations were not going well. He also recounted one instance where the Council came to Mr. Didesch and expressed frustration and said the IGRA was clear to them. They said the market should decide what games were authorized. **Mr. Didesch** said at the first session in Spokane when Commissioner Graham came to the table, he said he thought the market should decide. He thanked Commissioner Graham for being a part of the negotiations and wished him the best for the future.

John Beadle, WCCGA, remarked all of the members join him in their sincere appreciation for his outstanding service the past ten years to the state of Washington, the citizens, and to the nonprofits of this state. Over the past ten years, there have been many changes for the betterment of the industry and Commissioner Graham was very instrumental in those changes. **Mr. Beadle** presented Commissioner Graham with a granite clock reading, "Washington State Gambling Commission Commissioner Patrick J. Graham, April 10, 1985 to June 30, 1995. With deepest appreciation and recognition for your wholehearted support of the nonprofits of this state, we sincerely thank you for your outstanding service. WCCGA."

Chairman Tull said it is difficult to summarize how important Commissioner Graham has been to the Commission and staff.

Senator Prentice said she first became acquainted with Commissioner Graham serving on the Gambling Policy Task Force. She said gambling had been a new area for her and his very level-headed approach and fairness was very much appreciated.

Chairman Tull said it is very difficult to summarize how important Commissioner Graham has

been to the commission and to the members of the Commission. He said he thought Commissioner Graham knew people cared about him. He reminded the Commission of the motion by Commissioner Heavey to commend Commissioner Graham for all his service, leadership and dedication; vote taken to with all aye votes.

The meeting was adjourned.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant